

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF PUERTO RICO

ISRAEL SANTOS-VELAZQUEZ, JOSE M.  
DEL-VALLE-LANDRON, LUIS ROSARIO-  
RODRIGUEZ, ADA I. CRUZ-RIVERA,  
ALEJANDRO SANCHEZ-VAZQUEZ,  
ALFREDO ALEQUIN-TORRES,  
ANASTASIO RUIZ-TORRES, ANDREA  
LEBRON-RUIZ, ANDRES MARTINEZ-  
PINTOR, ANGEL DIAZ-AGOSTO, ANGEL  
L. DELGADO, ANGEL L. RAMOS-  
ROMAN, ANGEL R. RUIZ-GARCIA,  
ANGEL L. RUIZ-VEGA, ANGEL L.  
VAZQUEZ-ELIZA, ANTONIO  
RODRIGUEZ-MEDINA, CARLOS R.  
MARTINEZ-DIAZ, CARMEN D.  
RODRIGUEZ-TORRES, DAVID BATISTA-  
TAVERAS, DIONISIO SANTANA-DIAZ,  
DOMINGO ANDUJAR-VELEZ, EDDIE  
RIVERA-LOPEZ, EDGARDO GUTIERREZ-  
MARTINEZ, EDWARD LOPEZ-ROSADO,  
ENEIDA MARTINEZ-RODRIGUEZ, ENID  
ROSA-RODRIGUEZ, ENRIQUE E.  
CARRASQUILLO-ENCARNACION, ERIC  
D. ORTIZ-INFANTE, EVELYN MATEO-  
SANTIAGO, FELIX FANTAUZZI-LEBRON,  
FELIX M. BAEZ-DIAZ, FELIX M.  
FIGUEROA-RIVERA, FELIX TORRES-  
RODRIGUEZ, GILBERTO DIAZ-CACERES,  
GILBERTO VAZQUEZ-CRUZ, GONZALO  
HERNANDEZ-ALVERIO, GUILLERMO  
GARCIA-TEXEIRA, HECTOR I. DEL  
MORAL-SUAREZ, HECTOR J. ROSARIO-  
MERCADO, HENRY VAZQUEZ-  
RODRIGUEZ, HIPOLITO PEREZ-  
MARTINEZ, ISMAEL MARTINEZ-  
RODRIGUEZ, ISMAEL ROBERTO  
CUADRADO, ISRAEL RAMOS-PAGAN,  
JESUS E. FUENTES-MORALES, JESUS  
FLECHA DE JESUS, et al

Plaintiffs

vs

SUNOCO, INC.; PUERTO RICO SUN OIL  
COMPANY, INSURERS A, B & C, JOHN  
AND JANE DOE

Defendants

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**ORDER**

Before the Court are the Motion for Partial Summary Judgment filed by plaintiffs on February 22, 2005 (**docket entry 41**), defendants' opposition filed on March 8, 2005 (**docket entry 49**), and plaintiffs' reply tendered on March 17, 2005,<sup>1</sup> as well as the Motion for Summary Judgment filed by defendants on February 22, 2005 (**docket entry 44**), their Memorandum of Law in Support (**docket entry 45**) and Statement of Uncontested Facts (**docket entry 46**), plaintiffs' opposition filed on March 7, 2005 (**docket entry 48**), and defendants' reply tendered on March 16, 2005 (**docket entry 51**).<sup>2</sup>

Having examined both dispositive cross-motions and their related filings, the Court FINDS that there are genuine issues as to material facts which preclude the entry of summary judgment in favor of either party. As examples, we note that there are genuine and material issues of fact regarding the participant status claimed by plaintiffs and the non-participant status claimed by defendants, as well as genuine and material factual disputes pertaining to the representations or lack thereof regarding plaintiffs' entitlement to severance benefits during the period of approximately nine (9) months from the first announcement of a possible shutdown and the sale of defendants' refinery. Defendants' Uncontested Fact (UF) no. 8, based on allegations 38-39 of the Complaint and which they submit in support of their motion for summary judgment, raises genuine and material issues of fact as to the non-participant status of plaintiff, not to mention the clear factual controversy regarding the comparable Shell employment offer (referred to in that same UF no. 8) as being below the 85% mark of their Sun Oil Company's salary including benefits.

Accordingly, plaintiffs' Motion for Partial Summary (**docket entry 41**) and defendants' Motion for Summary Judgment (**docket entry 44**) are DENIED. Defendants' Memorandum

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<sup>1</sup> Plaintiffs' Motion for Leave to File Extended Reply Brief filed on March 17, 2005 (**docket entry 52**) is GRANTED. The tendered reply brief is ORDERED FILED.

<sup>2</sup> Defendants' Motion for Leave to File Reply Brief filed on March 16, 2005 (**docket entry 51**) is GRANTED. The tendered reply brief is ORDERED FILED.

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of Law in Support Of Motion for Summary Judgment (**docket entry 45**) and Statement of Uncontested Facts in Support of Their Motion for Summary Judgment (**docket entry 46**) are NOTED.

SO ORDERED.

At San Juan, Puerto Rico, on August 31, 2005.

S/CARMEN CONSUELO CEREZO  
United States District Judge